HON'BLE THE CHIEF JUSTICE SHRI G.S. SINGHVI
AND
HON'BLE SHRI JUSTICE C.V. NAGARJUNA REDDY

Writ Appeal No. 773 of 2007

Between:

M/s The Andhra Sugars Limited (Chemicals and Fertilizers Division), Kovvur, West Godavari District, Rep. by its Assistant Personnel Officer, M.Srimannarayana Giri

… Appellant

And

Labour Court, Guntur rep. by its Presiding Officer & another

… Respondents

:: J U D G M E N T ::

Counsel for the appellant : Shri V. Srinivas

September 17, 2007

Per G.S. SINGHVI, C.J.

Feeling aggrieved by order dated 18-6-2007 passed by the learned Single Judge in WVMP.No.1633 of 2006 and WPMP.No.23080 of 2000 in Writ Petition No.18139 of 2000, whereby he confirmed ad interim order dated 26-9-2000 subject to the condition of payment of the arrears of wages payable to respondent No.2 in terms of Section 17-B of the Industrial Disputes Act, 1947 (for short, 'the Act'), the appellant has preferred this appeal under Clause 15 of the Letters Patent.

Respondent No.2 – Kokkirala Satyanarayana was engaged as

Mechanical Helper in the employment of the appellant company on 20-7-1987. After six years and five months, his service was terminated with effect from 20-12-1993. He challenged the same by raising an industrial dispute under Section 2-A(2) of the Act, which was registered as I.D.No.270 of 1994.

By an award dated 13-2-2000, Labour Court, Guntur declared the termination of the service of respondent No.2 as illegal and ordered his reinstatement with continuity of service and 50% back wages.

The appellant challenged the award of the Labour Court in Writ Petition No.18139 of 2000. While admitting the writ petition on 26-3-2000, the learned Single Judge passed interim order in WPMP.No.23080 of 2000 and stayed the implementation of the award subject to the condition that the writ petitioner shall comply with Section 17-B of the Act.

On notice, respondent No.2 filed WVMP.No.1633 of 2006 by stating that he has not been able to secure alternative employment and, on that account, he is finding difficulty in maintaining the family. The learned Single Judge, vide his order dated 18-6-2007, disposed of the vacate petition in the following terms:

> "The writ petition is filed questioning the award passed by the Labour Court in I.D.No.270 of 1994, dated 13-3-2000.
>
> While admitting the writ petition on 26-3-2000, this Court granted interim suspension of the impugned award on condition that the petitioner complies with Section 17-B of the Industrial Disputes Act.
>
> Now a vacate stay petition has been filed by the respondent-workman stating that he has not gainfully employed anywhere and the petitioner management is also not depositing wages under Section 17-B of the I.D. Act regularly.
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> Under those circumstances, the interim order passed on

26-9-2000 in WPMP.No.23080 of 2000 is made absolute subject to the condition of writ petitioner-management under Section 17-B of the I.D. Act from the date of award till date if not already paid, within a period of two months from the date of receipt of this order and continues to pay on or before 10th of every succeeding month. In default, the interim order dated 26-9-2000 stands vacated automatically without further reference to the Court.

However, the registry is directed to post the writ petition for final hearing immediately after Dasara Vacation, 2007."

Shri V. Srinivas, learned counsel for the appellant relied on the judgment of the Supreme Court in **Uttaranchal Forest Development Corporation v. K.B. Singh**[1] and argued that the impugned order is liable to be set aside because the learned Single Judge did not consider the issue of applicability of Section 17-B of the Act in a correct perspective. He emphasized that respondent No.2 had not produced any evidence to prove that he was not gainfully employed and yet the learned Single Judge burdened the appellant with the liability to pay backwages in terms of Section 17-B.

We have given serious thought to the arguments of the learned counsel, but have not felt persuaded to set aside the order under challenge. At the cost of repetition, we consider it necessary to mention that while passing ad interim order dated 26-9-2000, the learned Single Judge had imposed the condition of compliance of Section 17-B of the Act. The appellant did not challenge that order. Therefore, after a long time gap of seven years, it cannot question the direction given by the learned Single Judge for payment of the amount payable to the workman in terms of order dated 26-9-2000 read with Section 17-B of the Act.

It is also apposite to mention that Section 17-B was introduced to

relieve the workman of the hardship which would be caused to him on account of stay of the award of reinstatement passed by the competent adjudicatory forum constituted under the Act. In **Dena Bank v. Kiritikumar T. Patel**[2], the Supreme Court referred to the object of Section 17-B and observed:

> " It would thus appear that the object underlying the enacting of the provisions contained in Section 17-B is to give relief to the workman in whose favour an award of reinstatement has been passed by the Labour Court and the said award is under challenge in the High Court or this Court. The said relief has been given with a view to relieve the hardship that would be caused to a workman on account of delay in implementation of the award as a result of the pendency of the proceedings in the High Court or this Court."

In **Ch. Saraiah v. Executive Engineer, Panchayat Raj Department**[3], the Supreme Court reversed the order passed by the Division Bench of the High Court which had set side the direction of the learned Single Judge for compliance of Section 17-B and observed as under:

> " Having examined the provisions of Section 17-B of the Industrial Disputes Act, we are of the considered view that the court has no jurisdiction to direct non-compliance with the same when the condition precedent from passing an order in terms of Section 17-B of the Act is satisfied, and this being the legislative mandate, the Division Bench of the High Court committed serious error in interfering with the direction of the learned Single Judge."

In the result, the appeal is dismissed.

As a sequel to dismissal of the appeal, W.A.M.P.No.1542 of 2007 filed by the appellant for interim relief is also dismissed.

G.S. SINGHVI, C.J.

17th September, 2007

C.V. NAGARJUNA REDDY, J.

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[1] (2005) 11 SCC 449
[2] (1999) 2 SCC 106
[3] (1999) 9 SCC 229